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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:)	
)	
SEARS HOLDINGS CORPORATION, <i>et al.</i> ,)	Case No. 18-23538 (RDD)
)	Chapter 11
Debtors. ¹)	(Jointly Administered)
_____)	

**OBJECTION OF LENNOX INTERNATIONAL INC. AND LENNOX
NATIONAL ACCOUNT SERVICES, LLC TO SECOND SUPPLEMENTAL NOTICE
OF CURE COSTS AND POTENTIAL ASSUMPTION AND ASSIGNMENT OF
EXECUTORY CONTRACTS AND UNEXPIRED LEASES IN CONNECTION WITH
GLOBAL SALE TRANSACTION**

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); and Sears Brands Management Corporation (5365). The location of the Debtors' corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179.

Lennox International Inc. and Lennox National Account Services, LLC (collectively, “Lennox”), by and through its undersigned counsel, hereby submits its Objection to the above-named Debtors’ Second Supplemental Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with the Global Sale Transaction (the “Second Supplemental Assumption and Assignment Notice”).

BACKGROUND FACTS

1. Most of the above-named Debtors filed for relief under Chapter 11 of the Bankruptcy Code on October 15, 2018 (the “Petition Date”). One additional Debtor similarly filed on October 18, 2018 and another filed in January 2019.

2. Lennox is party to a Master HVAC Services Agreement (the “Master Agreement”) with certain of the Debtors pursuant to which Lennox services and provides repair parts for HVAC systems located at various Sears and Kmart locations. These services are essential to keep the Debtors’ stores operational for the benefit of the Debtors’ customers and employees. The Master Agreement was effective as of February 1, 2014. The Master Agreement was amended as of February 1, 2017.

3. As set forth in Lennox’s Objection to Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with the Global Sale Transaction filed with the Court on January 25, 2019 (ECF 1807) (the “Cure Objection”), as of the Petition Date, the Debtors were indebted to Lennox in the amount of \$137,648.23 (the “Pre-Petition Debt”). Lennox’s Cure Objection and its attached exhibits are incorporated herein for all purposes.

4. As further set forth in the Cure Objection, during the course of these cases, Lennox has continued to provide parts and services to the Debtors pursuant to the Master Agreement. As

of the date of the Cure Objection, the Debtors had incurred unpaid post-petition debt to Lennox in the amount of \$50,769.21 (the “Post-Petition Debt”).

5. On November 19, 2018, the Bankruptcy Court entered the Order Approving Global Bidding Procedures and Granting Related Relief (the “Global Bidding Procedures Order”) approving global bidding and sale procedures (the “Global Bidding Procedures”).

6. On January 14, 2019, the Debtors commenced an auction for the sale of the Global Assets (as defined in the Global Bidding Procedures Order) (the “Auction”). As announced on the record of the Auction, the Debtors determined that the offer submitted by Transform Holdco, LLC (the “Buyer”), an entity established by ESL Investments, Inc. to acquire all or substantially all the Global Assets, was the highest or best offer for the Global Assets. The Buyer is an entity owned and controlled by the current majority owner of the Debtors, whose pre-petition transactions with the Debtors and its management are subject to continuing investigation and potential litigation.

7. On January 18, 2019, the Debtors served the Assumption and Assignment Notice informing thousands of parties to executory contracts and unexpired leases with the Debtors of (i) the possibility that their contracts could be assumed by the Debtors and assigned to the Buyer; (ii) the amount the Debtors believe each counterparty is owed to cure any outstanding obligations under the applicable contract (the “Cure Amount”); and (iii) the general availability of adequate assurance of future performance by the Buyer in the event a contract is assumed.

8. On January 31, 2019, the Debtors served the Second Supplemental Assumption and Assignment Notice adding additional alleged contracts to those listed in the Assumption and Assignment Notice and indicating the same potential relief.

9. In regard to Lennox, the Second Supplemental Assumption and Assignment Notice lists one contract with an alleged debtor counterparty identified as “Sears IT & Management Services India Private Limited” (“Sears India”). No Cure Amount is listed.

OBJECTION

10. Lennox objects to the assumption and assignment of the contract identified in the Second Supplemental Assumption and Assignment Notice for the following reasons:

- a. Lennox cannot locate any contract it has with Sears India and Sears India is not a named party to the Master Agreement. To the extent the contract identified somehow relates to the Master Agreement, Lennox objects to assumption and assignment on the grounds set forth in the Cure Objection, all of which are incorporated herein.
- b. Based on review of the official court records, Sears India is not a debtor before this Court. Therefore, to the extent Sears India has entered into any contracts with Lennox, such contracts cannot be assumed by the Debtors nor assigned to the Buyer.

11. Lennox reserves the right to further object to the assumption, assignment or rejection of the Master Agreement or any other contracts with the Debtors on any other basis.

Dated: February 8, 2019.

s/Judith Elkin

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 8th day of February, 2019, the annexed Objection was served on the (i) the Objection Recipients, as set forth in the Global Bidding Procedures Order; (ii) on the parties requesting ECF notifications via the Court's CM/ECF case notification system; (iii) upon the parties so indicated below via first class U.S. mail; (iv) upon the parties so indicated below via electronic mail; and (v) on all other parties requesting notice pursuant to Rule 2002 and in accordance with this Court's Amended Order Implementing Certain Notice and Case Management Procedures entered on November 1, 2018.

Dated: February 8, 2019

s/Judith Elkin

U.S. Mail

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